



June 3, 2021

**By Overnight Mail and Electronic Mail  
Confidential Business Information**

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1300 Coliseum Boulevard  
Montgomery, Alabama 36110

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
4 Constitution Square  
150 M Street NE, Suite 2.900  
Washington, DC 20002  
Re: DOJ No. 90-5-2-1-09729

S. Shawn Sibley  
General Counsel  
Alabama Department of  
Environmental Management  
1300 Coliseum Boulevard  
Montgomery, Alabama 36110

Re: Force Majeure Notification – Update Letter 12

Ladies and Gentlemen:

In accordance with the Consent Decree between Continental Carbon Company (“CCC”) and the United States, the Oklahoma Department of Environmental Quality (“ODEQ”), and the State of Alabama and the Alabama Department of Environmental Management, Consent Decree, *United States et al. v. Continental Carbon Co.*, Case 5:15-cv-00290-F (W.D. Okla. May 7, 2015), *as amended* First Amendment to Consent Decree (May 25, 2018) (“Decree”), including

Section XV and Paragraph 71 of the Decree, this letter follows up on our April 28, 2020 written notice of a force majeure event and potential noncompliance with obligations under the Decree as a result of the COVID-19 global pandemic and other issues and provides additional information as requested in the U.S. EPA's letter of May 14, 2020. Like the April 28 notice, this letter shall be handled as Confidential Business Information under federal and state law.

### **Ponca City**

1. Provide an update when any of Defendant's employees begin working onsite, including the number of employees and a description of the activities they perform.

NO CHANGE: CCC's Ponca City employees are back to normal operation, subject to appropriate COVID-19 protocols to maintain a safe working environment.

2. Provide any updates received from Defendant's contractors related to COVID-19.

UPDATED: CCC has implemented a protocol to allow visitors onsite and maintain a safe working environment, including use of masks, sanitation, and social distancing. [REDACTED]

[REDACTED] As requested by EPA, a separate letter will be distributed outlining these specific issues in greater detail.

3. Provide any updates, orders, or directives from state and local officials related to COVID-19.

UPDATED: The governmental updates are a matter of public record, but we note for EPA that in general. The State of Oklahoma withdrew and rescinded the COVID-19 State of Emergency effective May 4<sup>th</sup>.

<https://www.governor.ok.gov/newsroom>

[https://www.governor.ok.gov/articles/press\\_releases/governor-stitt-withdraws-covid-19-state-of-emergen](https://www.governor.ok.gov/articles/press_releases/governor-stitt-withdraws-covid-19-state-of-emergen)

4. Provide a detailed construction schedule, reflective of the anticipated schedule, broken out by month, that specifies the work being performed, the number of contractors expected to be on site (noting the name of the company), the anticipated date of arrival of major parts, and any other relevant information.

UPDATED: [REDACTED]

[REDACTED] As requested by EPA, a separate letter will be distributed outlining these specific issues in greater detail.

## Phenix City

1. Provide an update when any of Defendant's employees begin working onsite, including the number of employees and a description of the activities they perform.

NO CHANGE: CCC's Phenix City employees are back to normal operation, subject to appropriate COVID-19 protocols to maintain a safe working environment.

2. Provide any updates received from Defendant's contractors related to COVID-19.

UPDATED: CCC has implemented a protocol to allow visitors onsite and maintain a safe working environment, including use of masks, sanitation, and social distancing.

3. Provide any updates, orders, or directives from state and local officials related to COVID-19.

NO CHANGE: The governmental updates are a matter of public record. Alabama has developed a color-coded risk system to guide reopening. Phenix City is located in Russell County, which is currently designated as "Low Risk":

<https://www.alabamapublichealth.gov/covid19/guidance.html>

4. Provide a detailed construction schedule, reflective of the anticipated schedule as of March 1, 2020, broken out by month), that specifies the work being performed, the number of contractors expected to be on site. (noting the name of the company), the anticipated date of arrival of major parts, and any other relevant information.

UPDATED:

[REDACTED]  
[REDACTED] The challenges to manage the planning for the project have remained difficult considering the COVID-19 pandemic. The schedule continues to have a high level of uncertainty due to the everchanging situation associated with the COVID-19 pandemic. CCC's engineering service providers, [REDACTED] periodically review the updated equipment delivery expectations from potential vendors and revise the project schedule as necessary.

5. Provide clarification regarding the following: "there is substantial uncertainty regarding the equipment that will have to be purchased, once the design is completed."

UPDATED: The disruptions to the equipment supply chain continue to be a significant issue. Equipment suppliers from [REDACTED] continue to struggle to provide timely responses to RFP's (requests for proposals) and equipment deliveries continue to be uncertain due to the negative impact of the worldwide pandemic. CCC periodically reviews both domestic and global sourcing for the project.

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If you have any questions, please contact me at (281) 647-3841 or [dhetu@continentalcarbon.com](mailto:dhetu@continentalcarbon.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'Dennis Hetu', written over a light gray grid background.

Dennis Hetu  
President, Continental Carbon Company

cc: Sam Boxerman, Sidley Austin (by email)  
Jason Dunn, DOJ (by email)  
Gregory Fried, EPA (by email)  
Patrick Foley, EPA (by email)  
Kellie Ortega, EPA (by email)  
Christopher Williams, EPA (by email)  
Carlos Evans, EPA (by email)  
Emad Shahin, EPA (by email)  
Sydnee Adams, EPA (by email)  
Michiko Kono, EPA (by email)